



Montana Legislative Services Division

Office of Research and Policy Analysis

David D. Bohyer, Director

August 30, 2004

TO: Members of the SJR 32 Subcommittee on Medical Liability Insurance
Interested persons
FROM: Dave Bohyer, staff to the Subcommittee
RE: Revised draft LC 5000: a Montana version of the Wisconsin med mal re-insurance program

The attached bill draft, LC 5000, is our initial effort to craft legislation that would, if enacted, establish for Montana a medical liability insurance program similar to the Wisconsin Health Care Liability and Injured Patients Compensation Act.

It is important to recognize that the draft bill is still a draft, but that it now includes revisions requested by the Subcommittee at its June 24 meeting. The Wisconsin law on which LC 5000 is based was enacted in 1975 and has been amended numerous times since then. (The Wisconsin Legislature meets annually and has double the opportunity to amend law compared to Montana Legislatures.) Over the past 29 years, some of the original sections have been repealed and amended, some new sections have been added and in some cases amended, definitions have changed, medical practices have evolved, politics and policies have changed and changed again, and positions have changed while interests have remained largely the same. In addition, administrative rules that implement the Act have been adopted, revised, or repealed, technological change has compelled changes in business rules and practices, and "ways of doing things" have changed -- or not -- for a variety of reasons.

Translating the 29 years of statutory, administrative, and case law in Wisconsin into a reasonable facsimile applicable to Montana has been a significant challenge, first as initially drafted, now as represented by the revised draft of LC 5000, and as the draft metamorphoses through the legislative process into its final condition.

The "final condition" of LC 5000 is, simultaneously, far off and not so distant. It is "far off" in that the convening of the 59th Legislature is somewhat more than 4 months away and nearly 8 months from adjournment *sine die*. It is also "not so distant" in that the convening of the 59th Legislature is little more than 4 months away and only 8 months from adjournment *sine die*.

Finally, LC 5000 will be a primary item, along with 8 other draft bills, on the agenda of the Legislative Council at its meeting on September 17 in Helena. Comments and questions may be directed to me by e-mail at dbohyer@mt.gov or by phone at 406-444-3064.